

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re:

Ramon Gonzalez, Jr.

Debtor.
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Hearing Date: August 11, 2015
Hearing Time: 10:00 A.M.

Chapter 13

Case No.:1-13-40229-cec

**NOTICE OF MOTION TO
VACATE DISMISSAL**

PLEASE TAKE NOTICE that an application will be made before the Honorable Carla E. Craig on the 11th day of August, 2015 at 10:00 A.M. at the United States Bankruptcy Court, for the Eastern District of New York, in Courtroom 3529 located at 271 Cadman Plaza East, Brooklyn, New York, for an Order pursuant to 11 U.S.C. §105 vacating the order of dismissal entered by this Court on July 21, 2015 may deem just proper under the circumstances herein.

PLEASE TAKE FURTHER NOTICE that if you have any good reason to object to the granting of the relief sought herein, you must do so in writing at least five (5) calendar days before the scheduled hearing; and you must serve the undersigned and all other entities to whom this motion has been noticed, as indicated below, and file with the Clerk of the Court the original of your objections, together with proof of service. If no proper objections are timely filed and served, and if the Court is satisfied from the application that the moving party is entitled to the relief sought, the Court may sign the Order at the hearing.

Dated: Richmond Hill, NY
July 22, 2015

/s/ Bruce Feinstein, Esq.
Bruce Feinstein, Esq.
Attorney for the Debtor
86-66 110th Street
Richmond Hill, NY 11418
(718) 570-8100

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

(bf0938)

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In Re:

Case No.: 1-13-40229-cec

Ramon Gonzalez, Jr.

Chapter 13

AFFIDAVIT IN SUPPORT

Debtor.
-----X

State of New York }
 } ss.:
County of Queens }

Ramon Gonzalez Jr, being sworn deposes and says:

1. I am the debtor herein and fully familiar with the facts and circumstances contained in this affidavit, I make this affidavit in support of my motion for an order vacating the order dismissing this case which was entered on July 21, 2015.

2. This case was filed under Chapter 13 of the Bankruptcy Code on January 14, 2013. My Chapter 13 plan was confirmed by Order of this Court on July 9, 2013 . The confirmed plan provided for payment of \$878.00 commencing February 14, 2013 for five (5) months through and including June 14, 2013, then \$1,005.00 per month commencing July 14, 2013 for fifty-five (55) months through and including January 14, 2018 for a total of sixty (60) months. Distributions to all timely filed proofs of claim was to be not less than 100 percent.

3. The step-up amount represents the actual arrears owed to my mortgage lender Wells Fargo Bank, N.A. which came in at \$32,722.16 rather than the \$26,500.00 I believed was the arrears when I filed my petition.

4. On June 24, 2015 the case Trustee, Michael J. Macco, moved this court to dismiss my case for failure to make timely monthly plan payments. The motion was heard on July 14, 2015 and it alleged that the trustee was owed the sum of \$4,053.00 represent a step up plan.

5. The case was dismissed on the motion date with no opposition.

6. Prior to the motion date, my attorney, Bruce Feinstein had contacted me and asked me if I had been making my plan payments to the Trustee, because the Trustee had brought a motion to dismiss for failure to make payments are required under the plan.

7. I told my attorney that that was impossible, and that I had receipts which would prove that I had made all payments as required. In fact, I had faithfully made payments of \$878.00 each and every month from the date the first payment under the plan was due, February 14, 2015. (See Exhibit)

8. The problem was, I had not remembered that my confirmed plan called for a step-up payment to \$1,005.00 after the first five (5) months of the plan for the balance fo the remaining fifty-five (55) months. (See Exhibit)


9. The shortage referenced by the Trustee in his motion, is based upon all the payments made at \$878.00 instead of the step-up amount of \$1,005.00 since July 14, 2013 to date.

10. Now that I understand what the shortage entails, I stand ready to make a lump sum payment to the Trustee of \$4,180.00 which includes the payment coming due on August 13, 2015, just after this motion will be heard.

11 I believe that I can make the step-up payments of \$1,005.00 each month until the conclusion of my sixty (60) month plan.

WHEREFORE, I respectfully request that the Court vacate the Order of Dismissal entered on July 21, 2015 vacated, and that the case be reinstated.

Dated: July 22, 2015


/s/ Ramon Gonzalez, Jr
Ramon Gonzalez, Jr

Sworn to before me this
23rd day of July, 2015


Notary Public

